

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 September 2022

Public Authority: Shropshire Council

Address: Shirehall
Abbey Foregate
Shrewsbury
Shropshire
SY2 6ND

Decision (including any steps ordered)

1. The complainant requested information from Shropshire Council (the Council) relating to usage of, accidents reported on, and upkeep of part of the A4117. By the date of this notice Shropshire Council had not disclosed information in relation to this request for which it had issued a fees notice, and for which the complainant made advanced payment.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Disclose the information for which the Council issued a fees notice to the complaint.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 18 March 2022, the complainant made the following request for information to the Council:

“Hopton Wafers

1. Please provide a total number of accidents recorded in a year by yourselves from:
 - 1.1 Insurance companies, over the past 6 years from 2017-18 to 2021-22.
 - 1.2 West Mercia Police, over the past 6 years from 2017-18 to 2021-22.
 - 1.3 Public, over the past 6 years from 2017-18 to 2021-22.
2. Please provide a copy of the recent speed survey February 2022.
3. Please indicate over the past 6 years from 2017-18 to 2021-22 when speed surveys were done to the above location and where along the A4117 at Hopton Wafer they were placed.
 - 3.1 Please show locations on a map.
4. Shropshire Council reports covering A4117 at Hopton Wafers, this could be a general committee reports, Highway's reports, joint Police reports or even Councillor's report, over the past 6 years from 2017-18 to 2021-22.
5. Over the past 6 years from 2017-18 to 2021-22, please provide a total number per year of fatalities (loss of life) caused by motor vehicles along the A4117, in relation to the following and please show location on a map.
 - 5.1 Cattel
 - 5.2 Sheep
 - 6.3 Humans
6. For each year, please indicate over the past 6 years from 2017-18 to 2021-22 when contractors painted road markings on the road. 6.1 Please provide a map showing the locations road markings were painted.
7. Over the past 6 years from 2017-18 to 2021-22, please provide the total number of accidents recorded per year to humans, this should include Hopton Wafers.

7.1 Please indicate on a map the locations where accidents occurred.
7.2 please provide Council report of the accident if any, and any road/lights/signs etc, changes that followed the accident.

8. Please provide a map indicating present day road speed limits.

9. Apart from Hopton Wafers (Feb 2022), is there any other locations along A4117 that a speed survey was conducted around February 2022.

9.1 If yes, please show location on a map.

10. Please provide a map indicating locations where speed surveys were carried out over the past 6 years from 2017-18 to 2021-22

When replying, to avoid confusion & misunderstanding, please state my Question number at the beginning of your reply.

Unlike a built-up area for example London where a house number would be used to indicate a precise location, the only way and probably the easiest for yourselves is showing some of the question answers on a map, hence why I felt best to ask provide answer on a map where I felt appropriate. This in turn will avoid continuous queries about the exact location etc."

6. The Council acknowledged the request on 4 April 2022.

Scope of the case

7. The complainant contacted the Commissioner on 27 April 2022 to complain about the Council's failure to respond to this request.

8. The Commissioner contacted the Council on 11 May 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.

9. Following the Commissioner's intervention, on 23 May 2022 the Council responded to the complainant's request. There were three parts to this response:

a. A fees notice for information in response to questions 1, 1.1, 1.2, 1.3, 2, 3, 3.1, 5, 6, 7, 8, 9 and 10.

b. Disclosure of information relating to questions 4 and 6.

c. A refusal notice of some information.

10. It is unclear to what information the refusal notice related.
11. On 15 July 2022, having made efforts to ascertain the details with which they could make payment, the complainant made payment through their council tax account.
12. Following this, on 18 July 2022, the complainant wrote to the Council's Information Rights team explaining where they had sent payment, and why, along with a copy of a compliments slip they had received upon making payment.
13. On 25 July 2022 the complainant wrote to the Commissioner to complain that the Council had not provided the information referred to in the fees notice and for which they had made payment.
14. The Commissioner wrote to the Council on 8 August 2022 asking it to confirm it had received the payment, and asked further questions about its handling of charges for information under the EIR. The Commissioner requested a response by 31 August 2022.
15. To the date of this notice, the Council had not responded to the Commissioner's questions, nor had it released the information for which the complainant had made payment.
16. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

17. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

18. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

19. Regulation 8(6) of the EIR states that:

"The period beginning with the day on which the notification of a requirement for an advance payment is made and ending on the day on which that payment is received by the public authority is to be

disregarded for the purposes of determining the period of 20 working days...”

20. The effect of this regulation is that once a public authority issues a fees notice in response to a request for information, the 20 working day countdown as per regulation 5(2) is paused until the public authority has received the requested payment. This consideration, however, is irrelevant as the Council had failed to issue a response of any kind within the 20 working day limit.
21. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner’s decision is that the Council has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

Right of appeal

22. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

23. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF